

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

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In re:

BERNARD L. MADOFF,

Debtor.

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IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

UBS AG, UBS (Luxembourg) SA, et al.,

Defendants.

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No. 08-01789 (CGM)
SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 10-04285 (CGM)

ORDER DENYING THE UBS DEFENDANTS' MOTION TO REARGUE

The Defendants argue that the Court has failed to address the following: “(1) contains no allegations that UBS AG received any subsequent transfers and (2) seeks to recover subsequent transfers of funds that, by the Trustee’s own admission, could not possibly have derived from any allegedly fraudulent initial transfer.”

As to the first point, this Court addressed UBS AG’s receipt of subsequent transfers on page 33 of this Court Memorandum Decision. ECF No. 347. The Complaint defined the “UBS Defendants” to

include UBS AG. Am Compl. ¶ 6. And the Trustee alleges that the UBS Defendants received subsequent transfers. *See* Am. Compl. ¶ 333; *see also* Mem. Dec. at 33.

As to the argument that the allegations are mathematically impossible, the Court addressed this argument on page 34 of this Memorandum Decision. Since the Trustee has alleged that 100% of the Feeder Funds assets consisted of BLMIS Customer Property, 100% of what the UBS Defendants received from these funds must be BLMIS Customer Property. *See* Mem. Dec. at 34.

UBS Defendants will have the chance to plead and prove that these allegations are not true after the parties have completed discovery.

Dated: January 24, 2023
Poughkeepsie, New York



/s/ Cecelia G. Morris

Hon. Cecelia G. Morris
U.S. Bankruptcy Judge